

# SMAC

# SMAC Legislative Report

Of CALIFORNIA

News from the Small Manufacturers Association of California

*A compilation of news and commentary on the recent actions of California Legislators and bureaucrats in Sacramento*

## USC, LA, HELPS SOUTHERN CALIFORNIA REGION GAIN ACCESS TO \$1.3 BILLION IN GRANTS FOR QUALIFYING MANUFACTURERS

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Los Angeles Mayor Eric Garcetti

"This May budget revision is good news for California, It shows that California can afford to provide health care to many more people, while at the same time paying its debts and shoring up the long-troubled teachers' retirement system."

California Governor Edmund G. Brown, Jr.

By Tom Martin  
SMAC Executive Director  
& Legislative Chairman

U.S. Secretary of Commerce Penny Pritzker has announced the first 12 communities – including Southern California -- that will be designated Manufacturing Communities as part of the Investing in Manufacturing Communities Partnership (IMCP) initiative.

A joint effort between the city of Los Angeles and USC successfully secured the federal designation giving the Southern California region preferential access to \$1.3 billion in government funding for local aerospace and advanced manufacturing industries.

Southern California was one of only 12 regions designated as "Manufacturing Communities," selected from among 70 communities nationwide based on the strength of their economic plans, the potential for impact in their communities and the depths of their partnerships across the public and private sectors.

### LA'S HALCYON DAYS AS AN ENGINEERING HUB

"The Manufacturing Community designation has profound implications for Southern California, especially in aerospace and defense," USC President C. L. Max Nikias said. "For the past 50 years, USC has enjoyed very close ties with these industries and has educated some of the brightest talent in their ranks.

"This is why it gives me such great pride that the USC Center for Economic Development, as lead co-applicant with the city of Los Angeles, will be empowered to play a pivotal role in creating jobs and

reclaiming the region's positioning as a leading hub of engineering and manufacturing."

A consortium of more than 80 organizations across L. A. County and Ventura, Orange and San Diego counties called the Advanced Manufacturing Partnership for Southern California was one of a dozen regions given first opportunity at the grants under the under the Investing in Manufacturing Communities Partnership Initiative. The 12 regions were chosen from 70 applications nationally.

Los Angeles Mayor Eric Garcetti and USC led the effort to compete for the designation. The resulting partnership, the Advanced Manufacturing Partnership for Southern California, brought together aerospace businesses, the Jet Propulsion Laboratory, community colleges and universities, and government entities from Los Angeles, Ventura, Orange and San Diego counties.

"My top priority is to leave the recession in the rearview mirror by making sure Los Angeles is ready for the jobs and industries of tomorrow," Garcetti told a crowd gathered outside the California Science Center for a press conference. "We've been aggressive — today's announcement is the result of us being loud and clear in Washington that we're serious about investing in jobs here in California."

### A HISTORY OF PARTNERING FOR LA

The U.S. Commerce Department-led program is designed to accelerate the resurgence of manufacturing in communities nationwide by supporting the development of long-term economic development strategies that help communities attract and expand private investment in the manufacturing sector and increase international trade and exports.

"The 12 Manufacturing Communities announced represent a diverse group of communities with the most comprehensive economic development plans to attract business investment that will increase their competitiveness," said U.S. Secretary of Commerce Penny Pritzker. "IMCP is a critical part of our 'Open for Business Agenda' to strengthen the American manufacturing sector and attract more investment to the United States. Innovative programs like IMCP encourage

American communities to work together to craft strong, clear, strategic plans to attract manufacturing investment and jobs to transform themselves into globally competitive commercial hubs.”

“IMCP is one of the main programs at the center of the Administration’s efforts to support job creation and accelerate manufacturing growth to make our communities more globally competitive,” said U.S. Assistant Secretary of Commerce for Economic Development Jay Williams. “These 12 Manufacturing Communities are diverse, public-private consortiums that have put in place best practice economic development strategies that can be replicated by other American communities – including all those who applied for the IMCP designation.”

“It’s a very great day, I’m glad we won,” said Leonard Mitchell, executive director of the USC Center for Economic Development at USC Price. “Now we can really get on with the work that will be beneficial to the southern region of California and in fact, the whole state of California.” Universities, school district and nonprofits that are part of the consortium – among them UCLA, , UC San Diego, and the Montebello Unified School District – can apply for grants for workforce training program to prepare technicians or engineers for jobs within the area’s aerospace and advanced manufacturing industries.

California is home to 17% of the United States’ total aerospace production. 80% of the state’s aerospace workers reside in the Southern California region. The aerospace industry in Southern California produced more than \$31 billion worth of goods in 2011.

Capturing this production has broad benefits for the population of Southern California, with each aircraft manufacturing job supporting more than five new jobs in other industries. Building on the strengths of its workforce partnerships and its research institutions, the region has become a hub for new business attraction. (For example, Boeing has announced they are transferring 1,000 engineering jobs to the region to take advantage of the large talent pool.)

Other organizations, such as the Los Angeles County Economic Development Corp. will work with companies seeking to get established in the region to help them find sites, buy equipment and cut red tape.

## **KNOW THE LAW**

### **NLRB DECISIONS ARE IMPACTING MANY NON-UNION EMPLOYERS**

Labor Attorney Roger Crawford, of Best, Best & Krieger LLP recommends non-union employers should know and act on provisions of the National Labor Relations Act. (NLRA) and watch carefully new

pronouncement being issued by the National Labor Relations Board.

In a recent report published in the Riverside Press-Enterprise Attorney Crawford said NLRA manages relations between unions and private workplace management. Recently, the National Labor Relations Board (NLRB) has been imposing the NLRA more frequently on private non-union employers on behalf of nonunion, private sector employees.

This is most likely to happen after the employer has terminated or otherwise disciplined an employee for conduct that could be considered concerted and protected. The National Labor Relations Board increased attention to the nonunionized sector may be the result of significantly declining union membership in the United States. Ignoring this trend can lead to substantial penalties and expense for a private, non-union employer.

Section 7 of the NLRA protects traditional union organizing, but it also protects any time nonunion (as well as union) employees participate in “concerted activity,” such as having discussions with fellow employees about pay or complaining about working conditions.

Concerted is defined as two or more employees working together or “in concert,” and this broad interpretation gives nonunion employers the most trouble when it comes to NLRA claims. For a concerted activity to be protected under the NLRA, it generally must center on a controversy involving the terms and conditions of employment. Therefore, if employees take action as a group to complain about company policies, their actions may be protected. Additionally, if an employee acts alone, his conduct may be considered concerted activity, protected by the NLRA, if he is acting on behalf of other employees.

### **NLRB MONITORS NONUNION WORKPLACE RULES**

The labor board scrutinizes all types of company policies at nonunion workplaces resulting from claims, including confidentiality, fraternization, statements of conduct, off-duty access, apparel and appearance, disloyalty, civility, media contact and employment-at-will.

Pay policies also can be the basis for NLRA claims. Since wage issues are a frequent objective of employee organizing, rules prohibiting wage discussions have been interpreted to be unlawful interference with the right of employees to engage in concerted activity.

With the pervasiveness of technology in society, many employers now have social media policies in their handbooks and this has resulted in NLRA claims. The mere monitoring of employee use of social media could be deemed a violation of the NLRA if it can be construed as the unlawful surveillance of an employee’s exercise of her concerted and protected rights. The board will,

however, support an employer's social media policies that clarify and limit their scope by including examples of clearly illegal or unprotected conduct.

Not all employee activities, of course, are protected under the NLRA, including intermittent strikes and work slowdowns; comments to third parties that are critical of the employer but make no reference to any labor controversy or term and condition of employment; concerns about customer satisfaction or product quality; and social issues that have no more than a tangential relationship to work.

Employees who complain about their own personal employment problems (as opposed to voicing concerns about how policies affect the workforce) generally are not covered under the NLRA protections either.

How can nonunion employers avoid violations of the Labor Act? Start by reviewing and revising your current policies and handbook provisions to make them compliant. When it comes to disciplining employees, consider whether their conduct constitutes protected concerted activity. Train your supervisors, managers and other decision makers on the issue of protected concerted activity. Adopt a lawful disclaimer in the company handbook that specifically addresses protected concerted activity.

Think about conducting periodic reviews of personnel rules to establish compliance with the most recent NLRB rulings and other changes to legal requirements.

Roger Crawford is a partner in with Best, Best & Krieger where he advises and represents public and private sector employers in all aspects of labor and employment law. He can be reached at [roger.crawford@bbklaw.com](mailto:roger.crawford@bbklaw.com)

## **EMPLOYERS MUST REPORT ALL NEW HIRES AND REHIRES WITHIN 20 DAYS**

Did you know, all California employers must report all of their new or rehired employees who work in California to the New Employee Registry within 20 days of their start-of-work date?

Employment Development Department spokesperson Paula Peyronel reminds California employers to file your *Report of New Employee(s)* (DE 34). Among benefit Filing the DE 34 may help a child receive the court ordered support they are entitled to.

She asks employers to help EDD to help them. For more information about this requirement, visit EDD's New Hire Reporting page at: [www.edd.ca.gov/Payroll\\_Taxes/New\\_Hire\\_Reporting.htm](http://www.edd.ca.gov/Payroll_Taxes/New_Hire_Reporting.htm).

## **GOVERNOR JERRY BROWN OFFERS REVISED BUDGET FOR CALIFORNIA**

Governor Edmund G. Brown Jr. released a revised state budget today that provides health care to millions more Californians, pays down \$11 billion in debt and fully funds the teachers' retirement system over time.

"This May Revision is good news for California," said Governor Brown. "It shows that California can afford to provide health care to many more people, while at the same time paying its debts and shoring up the long-troubled teachers' retirement system."

The Governor's revised budget plan comes on the heels of an agreement with legislative leaders of both parties to bring greater stability to the state's finances in the years to come. The agreement, based on the Governor's January proposal, establishes a Rainy Day Fund that allows the state to save for the future while paying down its debts and unfunded liabilities. The proposal is expected to go before voters in November.

For the budget year (2014-15), the May Revision sets aside \$1.6 billion to make the final payment on the Economic Recovery Bonds and another \$1.6 billion for the Rainy Day Fund.

The May Revision reflects more than \$2 billion in added costs over and above the January budget. This includes higher spending to provide health care coverage under Medi-Cal for a million more people, emergency drought assistance, added funding to meet the Proposition 98 guarantee for K-14 schools, caseload increases in the In-Home Supportive Services (IHSS) program, additional contributions to the California Public Employees' Retirement System (CalPERS) and added staffing to administer California's unemployment insurance program.

When Governor Brown took office, the state faced a massive \$26.6 billion budget deficit and estimated annual shortfalls of roughly \$20 billion. These deficits, built up over a decade, have now been eliminated by a combination of budget cuts, temporary taxes and the recovering economy.

## **DELINQUENT TAX RATE CHANGES**

Employers are noticed: The interest rate charged on all delinquent taxes for the period of July 1, 2014, through December 31, 2014, will be 3%.

## **EXTENTIONS FOR SAN DIEGO COUNTY EMPLOYERS IMPACTED BY WILDFIRES**

EDD spokesperson Paula Peyronel reports employers in San Diego County directly affected by the May, 2014 wildfire may request up to a 60-day extension of time from the EDD to file their state payroll reports and/or deposit state payroll taxes without penalty or interest. This extension may be granted under Section 1111.5 of the California Unemployment Insurance Code (CUIC). Written request for extension

must be received within 60 days from the original delinquent date of the payment or return to file/pay. Visit the EDD's Emergency and Disaster Assistance for Employers page for more information. If you have any questions, contact EDD Taxpayer Assistance Center at 1-888-745-3886.

## SEATTLE APPROVES \$15 MINIMUM WAGE, AMONG HIGHEST IN NATION

Seattle Mayor Ed Murray and the Seattle City Council have passed what the Mayor described as an imperfect but workable plan to increase the city's minimum wage to \$15 an hour, more than twice the federal minimum wage and one of the highest anywhere in the nation, through a series of complex and phased-in stages.

The result, he said, is a two-tiered minimum-wage structure. Employers with more than 500 workers — no matter where those workers are around the nation — would move on a faster track toward \$15 than smaller employers. Tips and employer-paid health care benefits also would be factored in getting to the \$15 level for smaller companies, at least in the earlier years of the plan.

The result is a disparity, at least in the rate of pay increases, if not the final destination: Some workers would get to \$15 an hour as early as 2017, with a cost-of-living adjustment after that tied to the Consumer Price Index, while other workers, at smaller companies, would not see \$15 until 2021. Washington already has the highest statewide minimum wage in the nation, at \$9.32.

## CALIFORNIA MINIMUM WAGE RISES TO \$9.00 PER HOUR EFFECTIVE JULY 1, 2014

Although the 2013 California legislature approved an hourly minimum wage increase to \$9.00 effective July 1, and to \$10.00 effective January 1, 2016 the progressive legislators are working hard to raise it to an even higher rate and more quickly.

Senator Mark Leno reports his bill, SB 935 which has passed the state senate, and now awaits hearing in the Assembly, would raise the minimum wage in three steps, starting at \$11 an hour in 2015 and increasing an additional \$1 per hour in both 2016 and 2017. Beginning in 2018, the minimum wage would be adjusted annually to the rate of inflation. SB 935 is co-sponsored by the Women's Foundation of California and SEIU California State Council.

"Increasing the minimum wage is critically important to millions of hard-working Californians and their families who live in poverty and are forced to rely on the state's social safety net programs despite being employed full time," said Senator Leno, D-San Francisco. "By giving low-income workers the pay and respect they deserve,

we will also address the growing inequality within our communities, which is a roadblock to economic recovery and a drain on already limited taxpayer resources."

The Census Bureau reports that nearly a quarter of California's 38 million residents, or 24 percent, live in poverty. An employee working full time earning \$8 an hour brings home just \$15,360 annually before taxes. The federal poverty level for a family of four with a single-wage earner is \$23,850.

Women are disproportionately impacted by the minimum wage. About six in 10 minimum wage workers in California are women, according to the National Women's Law Center.

"Not only will the proposed increase stabilize women, it will stabilize families and stimulate the economy," said Judy Patrick, President and CEO of the Women's Foundation of California. "Because women are disproportionately minimum wage workers, raising the minimum wage would help close the gender wage gap,

In 2013 Gov. Jerry Brown signed legislation that brings the state's lowest wage up to \$9 per hour later this year and \$10 per hour in 2016. It would, though, still fall short of both the federal and give Californians less purchasing power than the state's minimum wage did in 1968, according to Senator Leno. That year's minimum wage, if adjusted for inflation, would be worth \$10.77 per hour today. Last year's action also did not include the critical step of requiring automatic increases in the minimum wage to protect future earnings against inflation.

## JUNE SMAC NEWSLETTER PUBLICATION DELAYED BY EDITOR'S ILLNESS

Publication of this June 2014, issue of SMAC Newsletter was delayed for a week because the editor was hospitalized during the last week in May. We apologize for any inconvenience this may have caused.

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Roger Crawford, Esq. Best, Best & Krieger LLP  
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